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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,649	12/17/2001	Francis D. Palazzo	60136.0136US01	1815
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EXAMINER				
SALCT, JASON P				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/022,649

**Applicant(s)**

PALAZZO ET AL.

**Examiner**

Jason P. Salce

**Art Unit**

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 12/07/2009 have been fully considered but they are not persuasive. Applicant argues that the amended limitations in the independent claims are not met by the combination of Fries and Tomsen. See the updated rejection below which address the amended limitations.

All remaining rejections have been rescinded in view of the current amendment of record.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-21 and 24-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (U.S. Patent No. 6,317,885) in view of Tomsen (U.S. Patent Application Publication 2002/0013950).

Referring to claim 16, Fries discloses providing access to EPG features from within broadcast advertisements (see **Figure 6 for accessing program listings (one broadcast advertisement)** from within broadcast advertisements (**the page options presented in Figure 6**)).

Fries also discloses receiving the broadcast advertisement comprising audio, video and promotional metadata over a broadcast distribution network (see **Column 3, Lines 24-28 for receiving audio and video over a broadcast distribution network, Column 3, Lines 66-67 and Column 4, Lines 1-3 for providing information pages (metadata), and Column 6, Lines 52-55 to teach that the information pages can be sent from advertisers, therefore teaching that the metadata is promotional metadata**), the promotional metadata including a plurality of data items (see **Figure 6 for the promotional page (containing promotions) consisting of a plurality of data items**), the data items including a promotion type ("**Market Report**" option in **Figure 6 or the page accessed in Figure 8**) and an EPG feature ("**Television Listings**" option in **Figure 6**), the promotion type including a purchasable event (see "**Purchase Now**" option in **Figure 8**) or an interactive advertisement (see "**Selection Chart**" option in **Figure 8**).

Fries also discloses storing the promotional metadata file (see **Column 4, Lines 3-13 for storing the promotional metadata**) and parsing the promotional metadata file (see **Column 6, Lines 48-55 for parsing/converting the promotional metadata/HTML Pages into an intermediate format**).

Fries also discloses receiving a user selection to view the promotion type of the promotional metadata file (see **Column 6, Lines 43-48 for the user requesting and receiving a promotion type and further note Figures 6 and 8 for the different promotion types**).

Fries also discloses presenting the promotion type (**see again Figure 8 for the “Selection Chart” and “Purchase Now” options**), but fails to teach the promotion type including a selectable option for the user to store the promotion type on a user-defined storage device for future viewing, during presentation of the promotion type (**according to the Applicant’s interpretation discussed above**), receiving a user selection to store the promotion type for future viewing of the promotion type on the storage device and storing the promotion type for future viewing of the interactive advertisement on the storage device.

Tomsen discloses presenting a promotion type that includes a selectable option (**see Figure 5 and Paragraph 0039 for a promotion type that includes an interactive advertisement to buy shoes, wherein the promotion type includes a “Buy Later” selectable option**) for the user to store the promotion type on a user-defined storage device for future viewing, during presentation of the promotion type (**see Figure 5 and Paragraphs 0040 and Paragraphs 0045-0046 for selecting the “Buy Later” option during display of the shoe commercial, which stores the promotion type during presentation of the promotion type and replaying the deferred promotion type at a later time**).

Tomsen also discloses receiving a user selection to store the promotion type for future viewing of the promotion type on the storage device and storing the promotion type for future viewing of the interactive advertisement on the storage device (**see again Paragraphs 0040 and 0045-0046 for the user selecting the “Buy Later” option to store the promotion type during presentation of promotion type and later**

**selecting to display the interactive advertisement (*the shoe advertisement*) at a future time).**

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the displayed promotion type, as taught by Fries, to include the selectable option to record the promotion type, as taught by Tomsen, for the purpose of preventing viewer's attention span, recollection of the product and interest in the product from being reduced (**see Paragraph 0007**), thereby generating additional revenue from interactive advertisements presented during television programs.

Referring to claim 17, Fries also discloses presenting the promotion type based on at least a portion of the data items (**see Figure 6 for displaying broadcast advertisements available for selection**) the broadcast advertisement including the EPG feature (**again note that the broadcast advertisements in Figure 6 contain the broadcast advertisement for selecting television listings and therefore a broadcast advertisement in the list of broadcast advertisements includes an EPG feature**).

Fries also disclose executing the EPG feature when selected from within the broadcast advertisement by the user (**see Column 7, Lines 17-21**) and that the EPG feature accesses on-online content (**see Column 4, Lines 1-16**), thereby teaching a selection of the promotion type.

Fries also discloses collecting payment information, if the promotion type is the purchasable event (see Column 13, Line 55 through Column 14, Line 57 and Figure 7). ***Further note Column 14, Line 48 for collecting a payment.***

Fries also discloses presenting a full screen of the promotion type, when the promotion type is the interactive advertisement (see Figures 6 and 8).

Referring to claim 18, Fries discloses that a plurality of promotion types are interspersed among the broadcast audio and video content (see Column 5, Lines 37-50 and Lines 60-67 for extracting audio, video and data packets interspersed within a 6 megahertz television channel, according to their PIDs).

Referring to claim 19, Fries discloses presenting the promotion type within an EPG, when the promotion type is the interactive advertisement (see Figures 6 and 8 for presenting a promotion "MARKET REPORT" within an EPG 108, where the promotion is the interactive advertisement).

Referring to claim 20, Fries discloses that the data items include a web action (see anchor focus area action in the table under Column 8) and a web address (see Column 22, Line 67 through Column 23, Line 3 for the data containing information for linking to another page).

Fries also discloses receiving a selection of the web action and providing access to a web page associated with the web address (see Figure 6 and Column 6, Line 66

**through Column 7, Line 53 for displaying a menu web page and selecting a link from the page and accessing other web pages from the current page).**

Referring to claim 21, Tomsen discloses the use of a PIP window to display advertisements (**see Figure 5**), therefore, the web page advertisements presented by Fries can be integrated to incorporated to display the web page advertisements in a PIP window, as taught by Alexander.

Referring to claim 24, Fries discloses storing a plurality of promotion types (**see browser 62 in Figure 3 and Column 6, Lines 35-42**).

Fries also discloses presenting the stored promotion types (**see Figure 6**).

Referring to claim 25, Fries discloses that the data items are selected from an EPG action (**see Figure 6 and Column 7, Lines 40-47 for the ESPN pages containing EPG actions**).

Referring to claim 26, Fries discloses that the EPG action is selected from a pay-per-view purchase (**see Column 13, Lines 47-64**).

Referring to claim 27, Fries discloses a set top terminal (**see Figure 3**) for providing access to interactive features of EPGs from within broadcast advertisements (**see Figures 6-8**).



Fries also discloses a network interface to receive broadcast audio and video content (see **tuners 70 and 71 in Figure 3**) along with at least one promotional metadata file associated with the broadcast audio and video content from a distribution network (see **Figure 7**).

Fries also discloses a promotional metadata storage to store the promotional metadata file (see **Column 14, Lines 60-65 for storing the promotional metadata in NVRAM 86**), the promotional metadata file including a plurality of data items (see **Column 14, Lines 60-65 for the promotional metadata file including an ACTION URL and query string**), the data items including a promotion type and an EPG action (see **Column 14, Lines 60-65 for the data including an ACTION URL and METHOD and further note Column 13, Lines 47-57 for the data further containing a purchase now option**), the promotion type including an interactive advertisement (see **again Column 13, Lines 47-57 and Column 14, Lines 47-65**).

Fries also discloses a presentation component to provide a presentation and a plurality of navigation tools (see **Figure 3 for overlay mixer 98 to display both a presentation and navigation tools in Figure 8 which teaches presenting navigation tools**), the presentation including the broadcast audio and video content (see **video and audio decoder 52 and 92 in Figure 3**), at least one EPG (see **Figure 6 for the television listings option 110s**), and at least one promotion type (see **Figure 8 for promotion items for purchase**), the promotion type being based on at least a portion of the data items (see **Figure 8 for the promotion being based on the data items presented on the page**).

Fries also discloses a display interface for receiving a user selection to view the promotion type (**see Column 6, Lines 43-48 for selecting a promotion type to view**) and in response thereto presenting the presentation and navigation tools on a display device (**see element 30 in Figure 3**), wherein the navigation tools provide interaction with the EPG action within the promotion type (**see Figure 8 for navigational tools in the form of radio buttons**).

Fries also discloses displaying the promotion type (**see again Figure 8 for the “Selection Chart” and “Purchase Now” options**), but fails to teach the a user-defined storage device for storing the promotion type, when the user selects an option to store the promotion type for future viewing, during the presentation of the promotion type, a digital video recorder for future viewing of the stored promotion type by the user.

Tomsen discloses presenting a promotion type that includes a selectable option (**see Figure 5 and Paragraph 0039 for the “Buy Later” selectable option**) for the user to store the promotion type on a user-defined storage device for future viewing, during presentation of the promotion type (**see Figure 5 and Paragraphs 0040 and Paragraphs 0045-0046 for selecting the “Buy Later” option during display of the shoe commercial, which stores the interactive advertisement during presentation of the interactive advertisement and replaying the deferred interactive advertisement at a later time**).

Tomsen also discloses receiving a user selection to store the promotion type for future viewing of the interactive advertisement on the storage device and storing the promotion type for future viewing of the promotion type on the storage device (**see**

**again Paragraphs 0040 and 0045-0046 for the user selecting the “Buy Later” option to store the interactive advertisement during presentation of the interactive advertisement and later selecting to display the interactive advertisement at a future time).**

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the displayed promotion type, as taught by Fries, to include the selectable option to record the promotion type, as taught by Tomsen, for the purpose of preventing viewer's attention span, recollection of the product and interest in the product from being reduced (**see Paragraph 0007**), thereby generating additional revenue from interactive advertisements presented during television programs.

Referring to claims 28-32, see the rejection of claims 17-19 and 25-26, respectively.

Claims 22-23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (U.S. Patent No. 6,317,885) in view of Tomsen (U.S. Patent Application Publication 2002/0013950) in further view of Lawler et al. (U.S. Patent No. 5,699,107) in further view of Matthews, III et al. (U.S. Patent No. 6,025,837).

Referring to claim 22, Fries and Tomsen disclose all of the limitations in claim 17, as well as Fries disclosing displaying data items on a television display (**see Figures 6 and 8**), but fails to teach the additional limitations.

Lawler discloses displaying data items on a television display, the data items including a show date, show time and tune action (**see Figure 3 and note that the tune action is the channel number the viewer must tune to or the cell that can be selected by the user**).

Lawler also discloses determining whether the promotion type is for an event that is presently playing using the data items (**see step 224 in Figure 4A**), the data items including a show date and show time (**see Figure 3**).

Lawler also discloses setting a reminder, when a program reminder is selected and the event is not presently playing (**see step 236 in Figure 4A and step 314 in Figure 7 and Figure 8**).

Lawler also discloses tuning the event, when the event is presently playing (**see Column 10, Lines 10-14**).

At the time the invention was made, it would have been obvious to modify the system of Fries and Tomsen, using the reminder system of Lawler, for the purpose of allowing a user to quickly and easily find and select desired future programs for reminding (**see Column 2, Lines 8-10 of Lawler**).

Fries, Tomsen and Lawler fail to disclose tuning the event, when the event is presently playing and the program reminder is not selected.

Matthews discloses setting a reminder and automatically tuning to the channel after the reminder has been displayed (**see Column 12, Lines 31-36**).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the reminder system of Fries, Tomsen and Lawler,

using the automatic tuning reminder system, as taught by Matthews, for the purpose of providing a better way of integrating supplemental content, be it on the Internet or elsewhere, with conventional TV and movie programs (**see Column 4, Lines 22-24 of Matthews**).

Claim 23 corresponds to claim 22, Lawler further discloses setting a recording device, when the event is not presently playing and the program reminder is not selected (**see Figure 10**).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason P Salce/  
Primary Examiner, Art Unit 2421

Jason P Salce  
Primary Examiner  
Art Unit 2421

February 10, 2010